

THE RULE ON FAMILY MEDIATION RESOLUTION

A.M. No. 24-02-06-SC, November 05, 2024

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WHEREAS, under Section 12, Article II of the 1987 Constitution, the State "recognizes the sanctity of family life" and binds itself to "protect and strengthen the family as a basic autonomous social institution." Further, under Section 1, Article XV thereof, the State "recognizes the Filipino family as the foundation of the nation" and accordingly, "shall strengthen its solidarity and actively promote its total development." And, in paragraph 4, Section 3, Article XV, the State shall defend "the right of families or family associations to participate in the planning and implementation of policies and programs that affect them;"

WHEREAS, the Philippines ratified the United Nations Convention on the Rights of the Child (UNCRC) on August 21, 1990. The UNCRC then entered into force on September 2, 1990. Thus, the Philippines adheres to the principle enshrined in paragraph 1, Article 3 of the UNCRC, which ordains that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration;"

WHEREAS, on October 28, 1997, Republic Act No. 8369, otherwise known as "Family Courts Act of 1997" was enacted, in keeping with the mandate of the Constitution and the precepts of the UNCRC. The Family Courts Act of 1997 mandates the courts to "preserve the solidarity of the family, provide procedures for the reconciliation of spouses and the amicable settlement of family controversy;" [1]

WHEREAS, on April 2, 2004, Republic Act No. 9285, otherwise known as the "Alternative Dispute Resolution Act of 2004" was enacted, declaring "the policy of the State to actively promote party autonomy in the resolution of disputes or the freedom of the party to make their own arrangements to resolve their disputes" and encouraging "the use of Alternative Dispute Resolution (ADR) as an important means to achieve speedy and impartial justice and declog court dockets;"[2]

WHEREAS, on June 22, 2010, the Court approved A.M. No. 10-4-16-SC or the "Rule on Court-Annexed Family Mediation and Code of Ethical Standards for Mediators" (RCAFM-CESM), which orders the referral of cases under its coverage to "specially trained family mediators at the Philippine Mediation Center (PMC) Unit." [3] The RCAFM-CESM also mandated the selection and accreditation of specially trained family mediators at the PMC Unit.[4] However, the RCAFM-CESM was never implemented;

WHEREAS, Supreme Court Memorandum Order No. 20-2014 dated August 13, 2014 created the Committee on Family Courts and Juvenile Concerns (CFCJC) with the mandate, among others, to (a) monitor the implementation of the plan for the creation and organization of family courts including identification of procedural rules and court guidelines, as well as judicial and legal forms, that must be adopted to increase the effectiveness of family courts; and (b) create such working groups as necessary to carry out its duties;

WHEREAS, in 2017, the Supreme Court hosted a Special Meeting in Manila for the Council of ASEAN Chief Justices (CACJ), of which the Philippines is a member. During the concurrently held 1st ASEAN Family Judges Forum (AFJF) on October 25 to 26, 2017, the CFCJC conducted a training session on family mediation in coordination with the Family Justice Courts of Singapore and the Singapore Mediation Center, with the assistance

of the Syariah Court of Singapore and the Philippine Judicial Academy (PHILJA). At the end of the session, it was unanimously recommended, among others, that (a) specialized family mediation units be created under the PMC; (b) family mediation training modules be developed; (c) trainers of mediators and family judge-mediators receive proper training; and (d) plantilla positions for psychologist and social worker in the Family Courts be established;

WHEREAS, during the 9[th] CACJ Meeting held in Jakarta, Indonesia, on October 7, 2021, the Working Group on Cross-Border Disputes Involving Children (WG-CBDIC) co-chaired by Singapore and the Philippines, adopted a non-binding Code of Ethics for Mediators, which provides the aspired values and minimum standards for mediating cross-border disputes involving children within the ASEAN for purposes of promoting the best interests of the child;

WHEREAS, during the 10 th CACJ Meeting held in Malaysia on November 4, 2022, the State Parties signed the Kuala Lumpur Declaration, which acknowledged the adoption by the WG-CBDIC of a common set of values, aspirations, and principles for ASEAN Judiciaries in cases of cross-border disputes involving children within ASEAN and their agreement to explore the possibility of providing a list of family mediators and organizations that provide family mediation for cross-border disputes involving children;

WHEREAS, the Philippines also acceded to two conventions with the Hague Conference on Private International Law (HCCH), i.e., Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (1980 Child Abduction Convention) and Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (2007 Child Support and Family Maintenance Convention). As the Central Authority under the HCCH 1980 Child Abduction Convention, the Department of Justice issued Department Circular No. 010, which provides that the Philippine HCAC[5] Unit "may also provide both parties with a list of family mediators who are duly accredited by the Office for Alternative Dispute Resolution (OADR) to assist in the discussions";[6]

WHEREAS, in keeping with its duties to adopt procedural rules to increase the effectiveness of family courts, unclog court dockets, promote the best interests of the child, and address the emerging need for family mediation, the CFCJC, by virtue of Supreme Court Memorandum Order No. 85-2023, created the Sub- Technical Working Group on Rule on Family Mediation (Sub -TWG on RFM) to revise the RCAFM-CESM. The Sub-TWG on RFM is composed of the following:

Chairperson: Hon. Angelenc Mary W. Quimpo-Sale

Associate Justice , Court of Appeals

Vice Chairperson: Judge Rosalina L. Luna-Pison (Ret.)

Family Court Judge, Quezon City

Members: Hon. Emily L. San Gaspar- Gito

Associate Justice, Court of Appeals

Hon. Cristina Javalera-Sulit

Presiding Judge , Regional Trial Court , Makati City

Hon. Sita Jose-Clemente

Presiding Judge , Regional Trial Court, Malolos, Bulacan

Atty. Laura C.H. Del Rosario

Deputy Clerk of Court and Judicial Reform Program Administrator

Judge Evelyn G. Nery (Ret.)

Family Court Judge , Cagayan de Oro City

Judge Mona Lisa V. Tiongson-Tabora (Ret.)

Regional Trial Court, Baguio City

PHILJA Professor II and Member of PHILJA ADR Department

Former Philippine Mediation Center Office Chief of Office

Mr. Jose T. Name

Chief Judicial Staff Officer

Philippine Mediation Center , Office of the Court Administrator

Secretariat: Atty. Apple Jane B. Clemente

Program Management Office

Atty. Patricia Benilda S. Ramos

Office of Associate Justice Amy C. Lazaro- Javier

Atty. Gail Bernardine T. Mendiola

Office of Associate Justice Angelene Mary W. Quimpo- Sale

WHEREAS, marking the beginning of the comprehensive process to draft effective and relevant rules on family mediation, the Sub-TWG on RFM held its first meeting on August 30, 2023;

WHEREAS, from September 28 to 29, 2024, the Sub-TWG on RFM conducted an onsite writeshop, which resulted in the first draft of the Rule on Family Mediation (RFM). The first draft of the Rule was then submitted by the Sub-TWG on RPM to the CFCJC on November 13, 2023 for review;

WHEREAS, the CFCJC approved the first draft of the Sub-TWG RPM during its First Validation Writeshop on December 13 to 14, 2023. Subsequently, on January 31, 2024, Associate Justice Amy C. Lazaro -Javier , as Chairperson of the CFCJC, submitted the first draft of the RPM to the Supreme Court En Banc for its consideration;

WHEREAS, from February to April 2024, the CFCJC conducted one onsite writeshop and one online meeting to incorporate the suggestions and comments of the members of the Supreme Court En Banc into the draft RPM. The second draft RFM was then presented to the Supreme Court En Banc during its April 10, 2024 session in the City of Baguio;

WHEREAS, pending approval of the RFM by the Supreme Court En Banc, the Memorandum of Understanding on Judicial Cooperation (MOU) was entered into between the Supreme Court and the Federal Circuit and Family Court of Australia on May 15, 2024. The MOU aims to support the Supreme Court of the Philippines in its programs for judicial cooperation and to enhance its capacity to implement judicial reform programs in accordance with its Strategic Plan for Judicial Innovations (SPJI) 2022-2027.

WHEREAS, through Resolution dated May 21, 2024, the Supreme Court En Banc approved the conduct of the Study Visit on Access to Justice of Disadvantaged Groups, Family Mediation, and Social Services and Counseling in Melbourne and Sydney, Australia, on August 5 to 9, 2024 by members of the Philippine Judiciary , headed by Associate Justice Amy C. Lazaro-Javier and joined by some members and consultants of the CFCJC. The Study Visit, which was supported by the Department of Foreign Affairs and Trade of the Government of Australia through its Fostering Advancement of Inclusive and Right-Based Justice (FAIR Justice) Program, included sessions on Australia's good practices on family mediation, and the selection of applicants, training, and accreditation of family mediators. The Study Visit also served as the foundational activity under the MOU ;

WHEREAS, during its Second Validation Writeshop on August 19, 2024, the Sub-TWG on RFM incorporated into the existing draft RFM the subsequent comments and suggestions received from the Members of the Court En Banc as well as the learnings gleaned from the Study Visit in Australia, particularly on observing

child-inclusive practice and victim and culture sensitivity, upholding the best interests of the child, and establishing the qualification and training procedures for family mediators. The Writeshop culminated in the third draft of the RFM, which was also referred to the CFCJC for validation.

WHEREAS, during its August 20, 2024 meeting, the CFCJC-TWG approved the third draft of the RFM and endorsed the same for the consideration and approval of the Court En Banc;

WHEREAS, after - considering additional inputs from the Members of the Court En Banc, the Sub-TWG on RFM came up with the third and final draft of the RFM;

NOW, THEREFORE, acting on the recommendation of Associate Justice Amy C. Lazaro-Javier, Chairperson of the CFCJC, the Court, sitting En Banc, resolved to APPROVE the "Rule on Family Mediation," a copy of which is attached hereto and made an integral part hereof.

This Rule shall take effect 15 calendar days after its publication in the Official Gazette or any newspaper of general circulation.

November 5, 2024.

(Sgd.) ALEXANDER G. GESMUNDO

Chief Justice

(Sgd.) MARVIC VICTOR F. LEONEN

(Sgd.) ALFREDO BENJAMIN S. CAGUIOA

Senior Associate Justice

Associate Justice

(Sgd.) (on official business)

(Sgd.) AMY C. LAZARO-JAVIER

RAMON PAUL L. HERNANDO

Associate Justice

Associate Justice

(Sgd.) HENRI JEAN PAUL B. INTING

(Sgd.) RODIL V. ZALAMEDA

Associate Justice

Associate Justice

(Sgd.) MARIO V. LOPEZ
(Sgd.) (on official business)
Associate Justice

SAMUEL H. GAERLAN

Associate Justice

(Sgd.) RICARDO R. ROSARIO
(Sgd.) JHOSEP Y. LOPEZ
Associate Justice
Associate Justice

(Sgd.) JAPAR B. DIMAAMPAO
(Sgd.) JOSE MIDAS P. MARQUEZ
Associate Justice
Associate Justice

(Sgd.) ANTONIO T. KHO, JR.
(Sgd.) MARIA FILOMENA D. SINGH
Associate Justice
Associate Justice

[1] Republic Act No. 8369 , sec. 2.

[2] Republic Act No. 9285, sec. 2.

[3]A.M. No . 10-4-16-SC , Rule 2.

[4] Id., Rule 4.

[5] Department Circular No.010, sec. 3(e). HCAC refers to the 1980 Convention on the Civil Aspects of International Child Abduction or the "Hague Child Abduction Convention."

[6] Department Circular No. 010, sec. 16.

THE RULE ON FAMILY MEDIATION

A. GENERAL PROVISIONS

SECTION 1. Applicability. - This Rule shall apply to cases within the jurisdiction of family courts, first and second level courts, and the Court of Appeals involving suits between husband and wife; between parents and children; among other ascendants and descendants; and among brothers and sisters, whether of the full or half-blood. [1]

This Rule shall also apply to relatives within the fourth civil degree of consanguinity or affinity, and to parties in a common-law,[2]dating, or sexual relationship, whether former or current. [3]

SECTION 2. Definition of Terms. -

(a) Best interests of the child refer to the totality of the circumstances and conditions most favorable and conducive to the survival , protection, and feelings of security of the child, and most encouraging to the child's physical, mental, psychological, social, moral, and emotional development. It also means the best available alternative for safeguarding the growth and development of the child. [4]

(b) Child-Inclusive Practice is a process that enables a child to have their voice heard and included in the family mediation process when issues relating to them are being discussed by their parents. [5]

(c) Conflict of interest arises from involvement of the family mediator in the subject matter of the dispute, or from a relationship, professional or personal, with any of the parties, or any other matter that may question the family mediator's impartiality. [6]

(d) Do No Harm Principle refers to doing no harm to any child by avoiding situations, questions, attitudes, or comments that are judgmental or insensitive to cultural values, that place a child in danger or expose a child to humiliation, or that reactivate a child's pain and grief from traumatic events. [7]

(e) Family Mediation is a process in which a mediator, functioning as an impartial third party, facilitates the resolution of family disputes and supports the parties' voluntary agreements.[8] It must be child inclusive and upholds the best interests of the child and the family.

(f) Family Mediator is a neutral third person duly trained and accredited by the Supreme Court of the Philippines to conduct family mediation. [9]

(g) Self-determination is the fundamental principle of family mediation . It is the act of coming to a voluntary, uncoerced decision in which each participant makes free and informed choices as to processes, decisions, and outcomes. [10]

(h) Trauma-Informed Approach is a transdisciplinary field that offers a more integrated view of trauma and its impact on an individual's life. [11]

(i) Vulnerable person is a person who is at a higher risk of harm than others, which shall include children, the elderly, the homeless, persons with disability, persons deprived of liberty, and victims of domestic violence. [12]

SECTION 3. Mandatory Referral to Family Mediation. - The following cases shall be referred to family mediation:

(a) all cases involving issues under the Family Code of the Philippines and other laws, which can be the subject of a compromise agreement, such as support, custody, visitation, property relations, and guardianship;

(b) settle ment of intestate estates under the Rules of Court involving parties falling under Section 1 of this

Rule;

(c) cross-border disputes in international child abduction, support, custody and visitation, guardianship, and other civil cases involving children filed in the Philippines between a Filipino residing in the Philippines or temporarily residing abroad and a citizen of a member-country of the Council of ASEAN Chief Justices (CACJ);[13]and

(d) other civil cases or the civil aspect of criminal cases where mediation is allowed by law, the rules, [14] international conventions or agreements, and the like, provided that the parties involved fall under Section 1 of this Rule.

SECTION 4. Cases Not Subject to Family Mediation. - The following cases shall not be referred to family mediation:

(a) civil cases that cannot be the subject of a compromise:

- civil status of persons;
- validity of a marriage or a legal separation;
- any ground for legal separation;
- future support;
- jurisdiction of courts; and
- future legitime; [15]

(b) habeas corpus, 16 unless it relates to custody of minors;[17]

(c) violations of Republic Act No . 9262, otherwise known as the Anti--Violence Against Women and Their Children Act of 2004;[18] and

(d) all cases involving issues under the Family Code of the Philippines with application for protection orders/restraining orders/preliminary injunctions. [19]

However, in cases under paragraphs (a), (c), and (d) above and under the Rule on International Child Abduction Cases, [20] where the parties inform the court that they have agreed to undergo mediation on some aspects thereof, such as the custody of minor children, separation of property, or support pendente lite, the court shall refer them to family mediation. [21]

SECTION 5. Condition to action. - No action under Section 3(a), (b), and (d) of this Rule shall be filed in court unless the parties underwent dispute resolution process and that they failed to reach an amicable settlement evidenced by a certification, as may be required under the Rules of Civil Procedure, as amended. [22]

B. FAMILY MEDIATION

SECTION 6. Duties of the Courts. - The courts are enjoined to assist in the successful implementation of family mediation as one of the key modes of Alternative Dispute Resolution (ADR) to reduce docket congestion. [23] The courts shall ensure payment by the parties of the mediation fees, unless exempted from payment. [24]

SECTION 7. Directive To Refer the Case to Mediation. -If the parties failed to reach an amicable settlement as provided under Section 5 of this Rule and the case is filed, the Court, after pre-trial conference and the issues have been joined, shall include a directive for parties to undergo mandatory Family Mediation in the Pre-Trial Order.

The order shall specify that the case shall be for Family Mediation and state that it shall be the duty of the parties

and their counsel to appear at the mediation and their non appearance may be excused only for a valid cause such as acts of God, force majeure, or duly substantiated physical inability or emotional or psychological condition. A representative may appear on behalf of a party for a valid cause and upon full authorization through a special power of attorney to appear, offer, negotiate, accept, decide, enter into, and sign an amicable settlement/compromise agreement [25] without need of further approval by or notification to the authorizing principal. [26]

SECTION 8. Mediation Procedure. -

(a) Upon receipt of the order from the court, the family mediator selected or assigned to the case shall immediately commence the mediation proceedings [27] and

(1) explain, in the language or dialect known to and understood by the parties, the purpose of the mediation, the mediation process, the ground rules on the conduct of mediation, and the benefits of an amicable settlement of the dispute;

(2) exert all efforts towards the immediate settlement of the dispute(s);

(3) with the consent of the parties, hold separate private caucuses with each of the parties, if necessary. When issues relating to the child are being discussed by the parents, the family mediator may hear the voice of the child in a separate caucus. Thereafter, the family mediator shall continue with the mediation proceedings;

(4) shall not record the mediation proceedings or take any transcript or minutes. Any personal notes taken during the proceedings shall be destroyed. Should such note or record exist, the same shall not be admissible in evidence in any proceeding;

(5) may request the court for the assistance of a court social worker, psychologist, or any other person to render to the parties or minor in the case, as may be necessary, support services, such as physical or psychological services and counseling;

(6) shall strictly observe the mediation period of 30 days counted from receipt of the order referring the case to family mediation unless an extension not exceeding 30 days is approved by the court as recommended by the family mediator; and

(7) must submit a family mediator's report to the court at the end of the mediation period.

(b) The parties and their respective counsel shall personally appear before the Philippine Mediation Unit (PMU) for mediation, unless a duly authorized representative appears with a special power of attorney. The presence of other persons, such as but not limited to family members, relatives, support persons, and advisers, may be allowed, subject to the approval of the family mediator and the parties.

(c) As far as practicable, if the court, upon motion, finds that the conduct of video-conference mediation will be beneficial to the fair, speedy, and efficient administration of justice, it shall order that the case be set for video-conference mediation, following the Guidelines on the Conduct of Videoconferencing 29 or any other videoconferencing guidelines as approved by the Supreme Court of the Philippines. [30]

SECTION 9. Suspension/Termination of Family Mediation. - The family mediator may recommend to the court the suspension or termination of the mediation proceedings under any of the following circumstances:

(a) when mediation is used to delay the proceedings;

(b) when mediation is used to dissipate or conceal assets of any or both of the parties;

(c) when any of the parties acts in bad faith;

(d) when there is any evidence of abuse, coercion, violence, or danger in the family, between the parties, the counsel, and the family mediator during mediation proceedings; [31]

(e) when referral of any of the parties to physical or psychological services or counseling and other support services is necessary; and

(f) other similar or analogous circumstances.

In instances falling under (a), (b), (c), and (d), the court may impose the appropriate sanctions provided under Sections 14 and 15 of this Rule.

SECTION 10. Withdrawal of the Family Mediator. - The family mediator may withdraw from the mediation proceedings upon notice to the court, the PMU, parties, and their respective counsels for any of the following grounds:

(a) when there is an allegation of partiality or violation of ethical standards;

(b) when there is animosity between the mediator and either or both of the parties; or

(c) any other justifiable reason.

At any time before or during the mediation proceedings, the family mediator shall withdraw if the said mediator cannot conduct the mediation in an independent, neutral, and impartial manner. [32]

After the withdrawal of the family mediator, if parties still desire to pursue mediation, a new family mediator shall be selected or assigned in accordance with the same procedure by which the original family mediator was chosen.[33] The new family mediator shall continue the proceedings within the remaining mediation period.

SECTION 11. Proceedings in Case of Successful Settlement. - If settlement is reached, the parties shall prepare the compromise agreement with the assistance of their respective counsel. The family mediator shall make available samples/templates of agreements to assist the parties in preparing their agreement.

Upon termination of mediation proceedings, the family mediator shall submit the family mediator's report to the court, copy furnished the PMU, together with any or all of the following:

(a) the original compromise agreement executed by the parties;

(b) motion for withdrawal/dismissal of the complaint and/or parties' respective claims and counterclaims;

(c) proof of satisfaction of claims, if any; or

(d) any other relevant document(s).

The court shall act on the family mediator's report and its attached document(s) within five days from receipt thereof.

SECTION 12. Judgment/Decision/Order in Family Mediation. - A Judgment/Decision/Order approving the compromise agreement of the parties shall contain a statement that the same was rendered through family mediation. The PMU shall be furnished copies thereof for documentation purposes.[34]

SECTION 13. Proceedings in Case of Unsuccessful Mediation. - If the Family Mediation is unsuccessful despite efforts exerted by the family mediator, the latter shall immediately submit a family mediator's report to the court, furnishing a copy to the PMU.

Family Mediation is unsuccessful in the following instances:

- (a) when the parties are unable to reach an agreement; or
- (b) when any of the parties fails to appear in succeeding mediation proceedings after starting to negotiate in a previous mediation proceeding. [35]

Upon receipt of the family mediator's report and if convinced that settlement is still possible, the court shall immediately refer the case for Judicial Dispute Resolution (JDR). [36]

SECTION 14 . Refusal To Undergo Family Mediation. - There is refusal to undergo Family Mediation when

- (a) any of the parties and their respective counsels, despite notice, refuse or fail to appear without justifiable reason ; or
- (b) any of the parties fail to pay mediation fees despite order of the court to do so. [37]

The PMU staff shall immediately submit a back-to-court report to the referring court on the date such refusal to undergo family mediation becomes evident.

SECTION 15 . Effects of Refusal To Undergo Family Mediation. - Acting on the back-to-court report, the court shall issue the following order :

- (a) dismissal of the case when both plaintiff / petitioner and counsel refuse to undergo family mediation without justifiable reason; or
- (b) ex parte presentation of the plaintiff/petitioner's evidence when allowed under the rules and/or dismissal of the counterclaim when the defendant/respondent and their counsel refuse to undergo family mediation without justifiable reason. [38]

SECTION 16. Imposition of Sanctions . - Upon recommendation of the family mediator and after notice and hearing , the court may impose the appropriate sanction(s) on any person who commits any of the following acts:

- (a) any contemptuous conduct committed during family mediation proceedings, which is any improper conduct tending directly or indirectly to impede, obstruct, or degrade the mediation proceedings, such as but not limited to misbehavior, use of foul or insolent language, discrediting the authority of the family mediator, disobedience, or resistance to the lawful order of the court [39] or
- (b) violation of the confidentiality and disclosure provision of this Rule.[40]

The following sanctions may be imposed:

- (a) censure;
- (b) reprimand;
- (c) contempt; or
- (d) reimbursement by the absent party of the costs of the appearing party including the attorney's reasonable appearance fee for that day.[41]

C. FAMILY MEDIATORS

C.1. QUALIFICATIONS, TRAINING, AND ACCREDITATION

SECTION 17. Duties of the Office of the Court Administrator-Court Management Office (OCA-CMO). - The Philippine Mediation Division (PMD), OCA-CMO, shall (a) recruit and select qualified applicants for family mediators; (b) coordinate with the Philippine Judicial Academy (PHILJA) and other agencies authorized by the Supreme Court to conduct training of applicants for family mediators; (c) conduct internship program for newly

trained family mediators; (d) evaluate and recommend the accreditation of the qualified family mediators; and (e) monitor, gather statistical data, and assess the performance of accredited family mediators.

The PMD, OCA-CMO, in performing its duties, shall work in consultation and coordination with the Supreme Court's Committee on Family Courts and Juvenile Concerns (CFCJC).

SECTION 18. Qualifications of Family Mediators. - Family mediators should possess the following qualifications:

- (a) holder of a bachelor's degree, or a former or retired judge or justice, or a member of the Philippine Bar in good standing, or an accredited mediator of the Supreme Court of the Philippines for at least two years; or a psychologist, social worker, or educator duly licensed and registered with the Professional Regulation Commission
- (b) at least 40 years of age;
- (c) of good moral character with proven competence and integrity and has not been charged or convicted of any crime involving moral turpitude; [42]
- (d) proficient in oral and written communication in English and Filipino, specifically, the local language or dialect [43] used in the province or city where the family mediator is/would be assigned; and
- (e) must have attended, within the last three years, at least two training/seminars on child or gender inclusivity, victim sensitivity, restorative justice, culture sensitivity, or other relevant child/family - related seminars conducted by reputable providers.

SECTION 19. Training/Immersion. - The family mediator, once qualified, shall undergo training conducted by the PHILJA or other agencies authorized by the Supreme Court to conduct training in all the following:

- (a) basic mediation course and information and communications technology;
- (b) ethical standards for family mediators;
- (c) skills in family mediation and family conferencing with simulation and role-play; and
- (d) family laws, rules, regulations, and international treaties and conventions.

After the training, the applicant shall undergo a two-month immersion program in actual mediation proceedings conducted by an accredited family mediator.

For the initial stage of implementation of this Rule, the training program and immersion shall be conducted by trainers duly authorized by the Supreme Court. [44]

SECTION 20. Accreditation of Family Mediators. - The accreditation of family mediators shall be pursuant to the "Standards and Procedure for Accreditation of Mediators for Court-Referred/Court-Related Mediation Cases" contained in A.M. No. 01-10-5-SC-PHILJA, as amended by the Resolution dated November 24, 2009, and subject to the approval by the Supreme Court upon recommendation of OCA. If approved by the Court, the accreditation shall be effective for a period of two years.

To maintain good standing and for renewal of accreditation, the family mediator must (a) continue to be of good moral character; (b) render mediation services in any PMU; (c) complete refresher courses as prescribed by PHILJA within the two-year period; and (d) comply with any other requirements of the PMD, OCA-CMO.

C.2. ETHICAL STANDARDS AND CONDUCT

SECTION 21. Duties of Family Mediators. - The family mediator works with the parties to facilitate communication, encourage understanding, and explore options toward a self-determined and consensual settlement.[45]

The family mediator must always respect the parties' right to self-determination. They shall assist the parties to clarify the issues and develop, discuss, and assess their options.[46] They shall not coerce or unduly influence a party and must only assist the parties to arrive at a self-determined and consensual settlement.[47]

The family mediator shall ensure that all parties have adequate opportunities to be heard, to be involved in the mediation process, and to seek other appropriate forms of assistance and support services, if necessary, before finalizing any settlement agreement.[48]

SECTION 22. Ethical Standards for Family Mediators . - The family mediator shall act in good faith, encourage mutual respect, honesty, and trust among the parties, advance the parties' interests, observe and uphold the best interests of the child and the family, child-inclusive practice, the do-no-harm principle, victim sensitivity, gender inclusivity, culture sensitivity, trauma-informed approach, and other principles in international conventions and agreements.[49] They must maintain the integrity of the mediation proceedings and promote public confidence in mediation as a process of resolving family disputes.

The family mediator, as an officer of the court, must uphold, at all times, the orders of the court to promote the speedy and effective administration of justice. The family mediator must be candid, truthful, and accountable to the court.

The family mediator is responsible to the Judiciary for the propriety of their activities and must observe judicial standards of competence, integrity, and impartiality.

(a) Competence. The family mediator shall maintain professional competence by

- (1) keeping abreast of the latest relevant laws, rules, legal principles, and administrative orders;
- (2) regularly attending training and seminars toward professional growth;
- (3) submitting to regular performance evaluations; and
- (4) ensuring at least a satisfactory performance as a family mediator

(b) Integrity. - The family mediator shall demonstrate personal and professional integrity to merit the trust and confidence of the parties in the family mediation proceedings by:

- (1) promoting and conducting a balanced process to encourage the parties to participate in the family mediation proceedings in a non-adversarial manner;
- (2) observing honesty and refraining from misrepresenting or withholding material facts or circumstances in the course of family mediation;
- (3) refraining from requesting, soliciting, receiving, or giving directly or indirectly any gift, favor, or other pecuniary or material benefit; and
- (4) avoiding ex parte or private communication, meeting, or socialization with any party, counsel, or representative. [50]

(c) Impartiality. - The family mediator must maintain impartiality and the appearance of impartiality by:

- (1) exhibiting neutrality in language and conduct towards all the parties, counsels, and representatives;
- (2) treating all parties, counsels, and representatives with courtesy and respect; [51] and
- (3) facilitating the parties' negotiations and refraining from rendering legal opinion or acting as counsel of either party or evaluating the outcome of the case. [52]

The family mediator must report and encourage parties to report in writing any violation or breach of these standards to OCA - CMO.

SECTION 23. Treatment of vulnerable Persons. - In dealing with vulnerable persons, the family mediator shall be mindful and sensitive of anal circumstances.[53] The family mediator must observe and uphold the best interests of the child and the family, child-inclusive practice, the do- no-harm principle, victim sensitivity, gender inclusivity, culture sensitivity, trauma-informed approach, and other principles in international conventions and agreements. If necessary, the family mediator may recommend the assistance of other professionals in dealing with vulnerable persons.

SECTION 24. Disqualification, Disclosure, and Inhibition of Family Mediators. -

- (a) The family mediator shall not mediate in any case in which they , their spouses, or children
 - (i) are related to either party within the sixth degree of consanguinity or affinity or to counsel within the fourth degree;
 - (ii) are pecuniarily interested as an heir, legatee, or creditor;
 - (iii) have an interest in any property , real or personal, involved therein;
 - (iv) have been an executor, administrator, guardian, trustee, or counsel [54] or
 - (v.) have previously participated in their professional capacity.

(b) If at any time, the family mediator discovers any conflict of interest or any fact or circumstance that may affect their impartiality, or create the impression or appearance of partiality, they shall disclose the same to the parties and inhibit themselves. The duty to disclose shall be a continuing obligation throughout the whole process of mediation.

(c) In cases covered by paragraphs (a) and (b), the family mediator may mediate if the parties consent in writing, with the conformity of the family mediator , and entered into the record.

(d) Should either party object to the family mediator's assignment on the ground of relationship , fiduciary or pecuniary interest, partiality, or any similar ground , the family mediator shall decline to accept the appointment, and the parties shall be allowed to select another family mediator in accordance with the same procedure by which the original family mediator was selected. The family mediator's acceptance of a request for them to withdraw shall not imply the truth or validity of the reason for which their recusal had been sought. [55]

SECTION 25. Prohibition Against Solicitation or Advertising. - The family mediator shall not use the family mediation process to solicit, encourage, or engage future professional services and obtain any pecuniary gain or favor. Neither shall the family mediator make untruthful or exaggerated claims about the family mediation process, their qualifications, and the scope of their authority.

SECTION 26. Confidentiality and Disclosure. - To encourage the spontaneity that is conducive to effective communication during family mediation proceedings, the family mediator shall assure the parties that their discussions and all admissions or statements made therein cannot be used as evidence during the trial or in any

other proceedings unless otherwise agreed upon. However, evidence or information that is otherwise admissible does not become inadmissible solely by reason of its use in the family mediation.

The family mediator shall not, in any manner, record the proceedings. No transcript or minutes of mediation proceedings shall be taken. If personal notes are taken for guidance, the notes shall be destroyed. Should such records exist, the same shall also be privileged and confidential. [56]

The family mediator shall not reveal to the other party any information received from one party during a private caucus unless with the consent of the party concerned. [57]

All information disclosed during the family mediation shall be confidential , except:

- (a) when required by law to be reported or disclosed, or by order of the court, or by some government agency having authority and jurisdiction to o r d e r such disclosure;
- (b) if, in the assessment of the family mediator, there is danger of potential harm or actual harm either to a party, a third person, or the family mediator themselves;
- (c) where the disclosure is necessary for the defense of the family mediator-in any pending proceedings or charges arising from the family mediation ; or
- (d) where all parties, in writing and with notice to the court, release the family mediator from their confidentiality obligations.

SECTION 27. Safe environment. - The family mediator shall maintain the family mediation process as a safe environment to allow all parties to freely and fully participate in the mediation proceedings. They shall actively address and manage any threatening or intimidating behavior by one party toward the other [58] and de-escalate any conflict or hostile behavior as much as possible to maintain a safe and conducive environment for the parties to discuss and reach a settlement. [59]

Should there be any evidence or threat of abuse, violence, or danger in the family, between the parties, counsels, family mediator, or any other person involved during family mediation proceedings, the family mediator shall immediately suspend the mediation and submit the necessary incident report to the court. In case of imminent danger, the family mediator may immediately seek the assistance of law enforcement officers.

SECTION 28. Avoidance of Delays. - The family mediators must plan their work schedules and conduct the family mediation proceedings without delay within the period provided under Section 8 (a)(6) of this Rule.[60]

SECTION 29. Awareness of Other Disciplines. - The family mediator shall be aware of the multidisciplinary nature of family disputes.[61] They shall respect the relationship of family mediation with other ADR processes and professional disciplines, including law, medicine, science, accounting, mental health, behavioral science, and social services, and shall promote harmony and cooperation among family mediators, the ADR, and other professionals.

D. MISCELLANEOUS PROVISIONS

SECTION 30. Permissive Referral to Family Mediation. - These cases may also be referred to Family Mediation:

- (a) cases under the last paragraph of Section 4 of this Rule by agreement of the parties at any stage of the proceedings;
- (b) other actions or proceedings involving parties under Section 1 of this Rule where compromise is not prohibited by law and there is a significant likelihood of settlement, either or both of the parties may, by oral or

written motion, after the pre-trial/preliminary conference or at any stage of the proceedings, request the court to refer their dispute to family mediation.[62] The court may in its discretion grant the request following the procedure provided under this Rule as may be applicable.

(c) cases covered by this Rule wherein judgment has already been rendered, the parties, if they both desire, may, on joint motion, request the court to refer their case for family mediation for purposes of voluntary compliance with the judgment.[63]

(d) cases covered by the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, the Rule on Legal Separation, and other similar rules wherein the judgment granting the petition is already final and executory, and any of the parties files a motion for the liquidation, partition, and distribution of the properties of the spouses, including custody, support of common children and delivery of their presumptive legitimes, or any other similar reliefs, any of the parties may request the court to refer their case for family mediation on the said matters.[64]

SECTION 31. Family Mediator's Fees. - Duly-accredited family mediators shall be entitled to the same fees granted to mediators in Appellate Court Mediation in the Court of Appeals.

SECTION 32. Suppletory Application. - In all matters not specifically covered by this Rule, the 2020 Guidelines of Court-Annexed Mediation and Judicial Dispute Resolution and the Rules of Civil Procedure, as amended, shall apply suppletorily.[65]

SECTION 33. Interpretation of the Rule. - This Rule shall be liberally construed in order to promote the parties' right to self-determination and uphold the best interests of the child and the family.

SECTION 34. Repealing Clause. - The provisions of the Resolution dated June 22, 2010 in A.M. No. 10-4-16-SC or the Rule on Court-Annexed Family Mediation and Code of Ethical Standards for Mediators and all other rules inconsistent with this Rule are hereby amended or repealed.

SECTION 35. Effectivity . - This Rule shall take effect 15 calendar days after its publication in the Official Gazette or any newspaper of general circulation.

[1] THE FAMILY CODE OF THE PHILIPPINES, Title V, Chapter 1, art. 150.

[2] THE FAMILY CODE OF THE PHILIPPINES, Title IV, Chapter 2, art. 87. See *Matabuena v. Cervantes*, 148 Phil. 295 (1971) [Per J. Fernando].

[3] Republic Act No. 9262 (2004), Anti-Violence Against Women and Their Children Act of 2004 .

[4] A.M. No. 22-09-15-SC, Rule on International Child Abduction Cases, October 18, 2022, sec. 4(b).

[5] See <https://relationshipsnsnsw.org.au>.

[6] Code of Ethics for Mediators in Cross-Border Disputes Involving Children (CBDIC) Within ASEAN, par. 3.09, as adopted in the Jakarta Declaration of the Council of ASEAN Chief Justices (CACJ).

[7] <https://www.unicef.org/serbia/en/ethical-guidelines>.

[8] APFM Standards of Practice for Professional Family Mediators, February 2, 2014, Academy of Professional Family Mediators, American Bar Association; <https://apfmnet.org>.

[9] Section 6.3 (b) Conditions to Action, Proposed Rule on Pleadings and Practice.

[10] APFM Standards of Practice for Professional Family Mediators, February 2, 2014, Academy of Professional Family Mediators, American Bar Association; <https://apfmnet.org>.

[11]Trauma Informed Approach, Introductory Handbook, <https://www.unicef.org/northmacedonia/media/12261/file/Trauma%20Informed%20approach.pdf>

[12]Code of PROF. RESPONSIBILITY AND ACCOUNTABILITY, Canon V, sec. 2, 3rd par.

[13]Kuala Lumpur Declaration at the 10th CACJ Meeting, 13th par., acknowledging the Concept Note on common set of values, aspirations and principles for ASEAN Judiciaries in cases of cross-border child disputes within ASEAN, November 4, 2022; Jakarta Declaration at the 9th CACJ Meeting, 9th par., acknowledging the adoption of a non-binding Code of Ethics for Mediators and Enhanced Common Procedure for dealing with cases where there is a cross-border dispute involving children within ASEAN, October 7, 2021; cacj-ajp.org.

[14]RULE ON INTERNATIONAL CHILD ABDUCTION CASES.

[15]See CIVIL Code, arts. 2034 and 2035.

[16]LOCAL GOV'T. CODE of 1991, sec. 412 (b)(2); *Tribiana v. Tribiana*, 481 Phil. 539 (2004) [Per J. Carpio, First Division].

[17]CUSTODY OF MINOR RULE. The word "minor" also includes "children," as defined under Republic Act No. 7610.

[18]OCA Circular No. 51-2011, Consolidated and Revised Guidelines to Implement the Expanded Coverage of Court-Annexed Mediation (CAM) and Judicial Dispute Resolution (JDR). See OCA Circular No. 43--2019, Issuance of the En Banc Resolution dated October 2, 2018 in A.M. No. 15-06-10-SC (Re: Adopting The Guidelines for Continuous Trial Of Criminal Cases In Pilot Courts). See also Letter-Reply dated March 21, 2018 of Chief Justice Diosdado Peralta (Ret.) to Hon. Justice Marina L. Buzon, Executive Secretary, Philippine Judicial Academy.

[19]OCA Circular No. 26-2021, En Banc Resolution dated February 9, 2021 in A.M. No. 19-10-20-SC; 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, A.M. No. 19-10-20-SC, Chapter 1, Sec. 4.

[20]Rule on International Child Abduction Cases, Sec. 31 (c); Convention on the Civil Aspects of International Child Abduction, Sec. 13 (b).

[21]OCA Circular No. 26-2021, En Banc Resolution dated February 9, 2021 in A.M. No. 19-10-20-SC; 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, A.M. No. 19-10-20-SC, Chapter 1, Sec. 4. See OCA Circular No. 51-2011, Consolidated and Revised Guidelines to Implement the Expanded Coverage of CAM and JDR; OCA Circular No. 43-2019, Issuance of the En Banc Resolution dated October 2, 2018 in A.M. No. 15-06-10-SC, Resolution approving the applicability of the Revised Guidelines for Continuous Trial of Criminal Case to Family Courts and Regional Trial Courts Handling Family Courts Cases.

[22] Section 6.1, Rule 6 Conditions to Action, Proposed Rule on Pleadings and Practice.

[23]Republic Act No. 9285, (2004), art. 2, Alternative Dispute Resolution Act of 2004.

[24]OCA Circular No. 51 -2011, Consolidated and Revised Guidelines to Implement the Expanded Coverage of Court-Annexed Mediation and Judicial Dispute Resolution.

[25]CIVIL CODE OF THE PHILIPPINES, art. 1878, par. 3. See also A.M. No. 19-10-20-SC, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, Chapter 2(D)(1), sc. 1, Appearance of Parties, p. 11.

[26]A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, Chapter 2(D)(1), sec. 1, Appearance of Parties, p. 11.

[27]A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, Chapter 2(B), sees. 3 and 4.

[28]Consistent with sec. 8(a) of this Rule.

[29]A.M. No. 20-12-01 -SC, December 9, 2020.

[30]A.M. No. 22-09-15-SC, Rule on International Child Abduction Cases, October 18, 2022, Sec. 22; JAKARTA DECLARATION at the 9th CACJ Meeting, par. 1.4 (c) and (d) of the Enhanced Common Procedure for Dealing with CBDIC within ASEAN, p. 3; cacj-ajp.org.

[31]Benchbook for Family Courts, p. 429, tagged as best practice. See also Safe Environment of this Rule, Sec. 24.

[32]Code of Ethics for Mediators in Cross-Border Disputes Involving Children within ASEAN, par. 3.08. See Jakarta Declaration at the 9th CACJ Meeting.

[33]A.M. No. 19-10-20-SC, 2020 Guidelines on the Conduct of Court-Annexed Mediation and Judicial Dispute Resolution, February 9, 2021, Chapter 2 (B), Sec. 3.

[34] A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 13, Chapter 2(B).

[35]A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 11, Chapter 2(B).

[36]A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 1, Chapter 2 (C).

[37] A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 1, Chapter 2(B).

[38] A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 5, Chapter 2(D)(2). See also A.M. No. 19-10-20-SC, 2019 Amendments to the 1997 Rules on Civil Procedure, Rule 18, sec. 5.

[39]A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 5, Chapter 2(D)(2).[]

[40] A.M. No. 19-10-20-SC, 2019 Amendments to the 1997 Rules on Civil Procedure, Rule 18, sec. 5.

[41] A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 5, Chapter 2(D)(2).[]

[42] In Australia, one of the accreditation criteria is that the family dispute resolution (FDR) practitioner is "not being prohibited under a law of a State or Territory from working with children"; Conviction of a crime involving moral turpitude is considered a serious offense under Section 33 of the Code of Professional Responsibility and Accountability.

[43]See section 8 (a)(1) of this Rule.

[44]Pursuant to the Memorandum of Understanding on Judicial Cooperation between the Supreme Court of the

Philippines and the Federal Circuit and Family Court of Australia.

[45]Code of Ethics for Mediators in CBDIC within ASEAN, par. 2.01. See Jakarta Declaration at the 9th CACJ Meeting, CBDIC.

"It is recognized that the essential principles of mediation are mediator neutrality, mediator impartiality and facilitating a self-determined settlement. Mediators work as neutral third parties to facilitate consensual settlement of issues between disputants."

APFM Standards of Practice for Professional Family Mediators, February 2, 2014, Academy of Professional Family Mediators, American Bar Association; <https://apfmnet.org>.

Self-determination is defined as "the act of coming to a voluntary, uncoerced decision in which each participant makes free and informed choices as to process, decisions and outcome."

[46]Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.13. See Jakarta Declaration at the 9th CACJ Meeting, *supra*.

[47] Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.14. See Jakarta Declaration at the 9th CACJ Meeting. See also APFM Standards of Practice for Professional Family Mediators. Standard I: Self-Determination. "A family mediator shall recognize that mediation is based on the principle of self-determination by the participants."

[48] Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.16. See Jakarta Declaration at the 9th CACJ Meeting.

[49]Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.01 and 3.02. See Jakarta Declaration at the 9th CACJ Meeting.

[50]Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.19. See Jakarta Declaration at the 9th CACJ Meeting.

[51] See Code of Ethics for Mediators in CBDIC within ASEAN, Jakarta Declaration at the 9th CACJ Meeting, par. 3.05.

[52]See Code of Ethics for Mediators in CBDIC within ASEAN, Jakarta Declaration at the 9th CACJ Meeting, par. 3.07.

[53]CODE OF PROF. RESPONSIBILITY AND ACCOUNTABILITY, Canon V, sec. 2, 1st par.

[54]See RULES OF COURT, RULE 137, sec. 1.

[55]A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of CAM and JDR in Civil Cases, sec. 7, Chapter 2 (B).

[56]Section 3, Chapter 2(D) of the CAM and JDR Rules.

[57]Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.18. See Jakarta Declaration at the 9th CACJ Meeting.

[58]APFM Standards of Practice for Professional Family Mediators, Standard IX: Domestic Violence.

[59]Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.04. See Jakarta Declaration at the 9th CACJ Meeting.

[60] A.M. No. 01-10-5-SC-PHILJA, October 16, 2001, Code of Ethical Standards for Mediators, Part II, Re: Various Resolutions of the Board of Trustees of the PHILJA Approved During its Meetings on 18 September 2001 and 1 October 2001.

[61] Code of Ethics for Mediators in CBDIC within ASEAN, par. 3.04. See Jakarta Declaration at the 9th CACJ Meeting.

[62] A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the Conduct of Court-Annexed Mediation and Judicial Dispute Resolution in Civil Cases, sec. 3, Chapter 1.

[63] A.M. No. 21-03-02-SC, Rules on Action for Support and Petition for Recognition and Enforcement of Foreign Decisions or Judgments on Support, rule 2, sec. 16, Rule 2, March 23, 2021; and as discussed, October 6, 2023. See *Espiritu v. Court of Appeals*, 312 Phil. 431 (1995) [Per J. Melo, Third Division]: The matter of custody is not permanent and unalterable. It can always be re-examined and adjusted if the custodial parent becomes unfit or the situation of the child changes and the arrangement is no longer to the child's best interest. See also *Beckett v. Sarmiento, Jr.*, 702 Phil. 433 (2013) [Per J. Velasco, Jr., Third Division].

[64] A.M. No. 02-11-10-SC, Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, sec. 21; A.M. No. 02-11-11-SC, Rule on Legal Separation, sec. 21.

[65] A.M. No. 19-10-20-SC, February 9, 2021, 2020 Guidelines for the CAM and JDR in Civil Cases.

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